

<p style="text-align: right;">Page 85</p> <p>1 handling of injured.</p> <p>2 A Okay.</p> <p>3 Q You see the two bold paragraphs at the</p> <p>4 bottom?</p> <p>5 A I do.</p> <p>6 Q First two sentences state, officers have an</p> <p>7 affirmative duty to care for persons in their custody</p> <p>8 and that officers are responsible for providing or</p> <p>9 obtaining appropriate medical attention to any person</p> <p>10 in their custody who is injured.</p> <p>11 Do you see that?</p> <p>12 A I do.</p> <p>13 Q Why is this language added to the 2021</p> <p>14 policy?</p> <p>15 A I don't think that's new.</p> <p>16 Q Feel free to take a look at it.</p> <p>17 A Is that what -- you are saying that's a new</p> <p>18 statement?</p> <p>19 Q Yes. Feel free to take a look at Exhibit</p> <p>20 14.</p> <p>21 A Handling of injured. Officers whose actions</p> <p>22 have resulted in or alleged to have resulted in injury</p> <p>23 or death of another person are required, after</p> <p>24 securing the person, to provide medical aid if</p> <p>25 necessary and will photograph the injuries. If a</p>	<p style="text-align: right;">Page 86</p> <p>1 subject requires more that on-scene medical attention,</p> <p>2 an attempt will be made to have a separate officer</p> <p>3 take them to the nearest medical facility versus</p> <p>4 officers have the affirmative duty.</p> <p>5 The language is different. It seems like</p> <p>6 the message is the same. That could have been the</p> <p>7 same thing when the law changed about duty to</p> <p>8 intervene. Maybe they changed to make that language</p> <p>9 stronger.</p> <p>10 Q So you are not sure the reason for the</p> <p>11 change?</p> <p>12 A No. I'm assuming. I don't recall. The</p> <p>13 accreditation manager would have it in her notes</p> <p>14 probably.</p> <p>15 Q Okay.</p> <p>16 A Because when we get reviewed, they want</p> <p>17 to -- probably want to know why we changed. Whether</p> <p>18 it was through the law change or best practices change</p> <p>19 amongst the organization, if that's what made the</p> <p>20 change happen. Me reading it, it's the same message.</p> <p>21 You hurt, you have a duty to care for people.</p> <p>22 Q What is an affirmative duty?</p> <p>23 A To my vernacular it's a shall not a should.</p> <p>24 Q And is that different from the earlier</p> <p>25 policy? Does it mention affirmative duty?</p>
<p style="text-align: right;">Page 87</p> <p>1 A The way I interpret it, it's a shall not a</p> <p>2 should.</p> <p>3 Q Okay. Let's take a look at the second bold</p> <p>4 paragraph. Second sentence in that paragraph states</p> <p>5 officers restraining a subject shall be cognizant of</p> <p>6 and avoid positional asphyxia. This department</p> <p>7 prohibits face down, prone restraint. The officer</p> <p>8 should properly restrain the subject and place the</p> <p>9 subject in an upright position sitting or standing or</p> <p>10 side laying position.</p> <p>11 Do you see that?</p> <p>12 A Yep.</p> <p>13 Q Okay.</p> <p>14 A That language stemmed from our training that</p> <p>15 I spoke about earlier, the ACCG.</p> <p>16 Q So prone restraint, what were you taught</p> <p>17 about prone restraint?</p> <p>18 MR. WILLIAMS: Object to form.</p> <p>19 A Now or --</p> <p>20 Q ACCG's training that you referenced.</p> <p>21 A That it could cause positional asphyxia.</p> <p>22 People could have difficulty breathing in that</p> <p>23 position made us aware of that.</p> <p>24 Q And you didn't know that before ACCG's</p> <p>25 training?</p>	<p style="text-align: right;">Page 88</p> <p>1 A Having never had an incident of it, the way</p> <p>2 they were able to articulate it and talk about agonal</p> <p>3 breathing definitely made us more aware. So the</p> <p>4 common practice was don't hog tie. This wasn't a</p> <p>5 non-common practice in this situation trying to</p> <p>6 control somebody who's been combative for so long and</p> <p>7 somewhat appeared to be under the influence of</p> <p>8 something, it wouldn't be unreasonable to attempt to</p> <p>9 restrain them down while they waited on medical</p> <p>10 assistance. Having learned lessons thereafter, i.e.</p> <p>11 the policy change, we should attempt to put them in</p> <p>12 what we call recovery position as outlined in what the</p> <p>13 policy you just read. Sitting or on their side</p> <p>14 position which would help breathing.</p> <p>15 Q This policy amendment in Exhibit 15 was May</p> <p>16 2021. When was the ACCG training that you received?</p> <p>17 A I don't recall when it came out. I do --</p> <p>18 what I do recall about it -- like I said earlier -- it</p> <p>19 was around the George Floyd case that was still very</p> <p>20 active when this training came out.</p> <p>21 Q Do you know if the training was in 2021?</p> <p>22 A Trying to recall I'd say yes. But I can't</p> <p>23 tell you for sure.</p> <p>24 Q Could it have been 2020?</p> <p>25 A It could be. I really don't -- I just -- I</p>

<p style="text-align: right;">Page 89</p> <p>1 do recall the training. I do recall it was around the</p> <p>2 George Floyd time. I do recall it made an impression</p> <p>3 on me and I told training and accreditation I want</p> <p>4 this in policy. I want our people trained on it. Get</p> <p>5 this information out. That I recall. That training</p> <p>6 made an impression on me.</p> <p>7 Q Could it have been --</p> <p>8 A It was something I'd never gotten before.</p> <p>9 Q Could it have been 2019?</p> <p>10 A No, I think that was too long ago. I think</p> <p>11 it's more recent.</p> <p>12 Q So prior to this change in the policy, were</p> <p>13 your officers taught anything about the prone</p> <p>14 position?</p> <p>15 A Not that I know of.</p> <p>16 Q And I think we may have covered this but</p> <p>17 were they taught anything about positional asphyxia?</p> <p>18 A Prior?</p> <p>19 Q Prior to this change in policy.</p> <p>20 A No, not that I'm aware of.</p> <p>21 Q If this policy, Exhibit 15, had been in</p> <p>22 place before the arrest of Mr. Rodriguez, would the</p> <p>23 policy have been violated?</p> <p>24 MR. WILLIAMS: Object to form.</p> <p>25 A I would want to look at -- I'm sure</p>	<p style="text-align: right;">Page 90</p> <p>1 everybody as far as training and all actually look at</p> <p>2 all of the tapes before coming to a conclusion. From</p> <p>3 what I seen, I would have liked him to have been in a</p> <p>4 better recovery position. To answer your question,</p> <p>5 yes, quite possibly.</p> <p>6 But I would want to see all the tapes and</p> <p>7 see how long he was in the prone. See about the</p> <p>8 recovery position. Ideally I wish somebody -- it's</p> <p>9 unfortunate what happened. And it's -- it's an</p> <p>10 unfortunate incident that we learn from to do it</p> <p>11 better in the future. And I think between our case or</p> <p>12 George Floyd's case or all these different cases, we</p> <p>13 are learning from this and that's why training is</p> <p>14 coming out from groups like ACCG and others that do</p> <p>15 this.</p> <p>16 I don't want to give you -- I don't know if</p> <p>17 I'm able to give you -- just say yes or no would they</p> <p>18 have been in violation of this policy. To go back</p> <p>19 and -- how long -- I know from what I saw in the tape</p> <p>20 he showed me a little while ago, you know, the</p> <p>21 screaming and the kicking, the still moving and we</p> <p>22 talk about the recovery position. As soon as it's</p> <p>23 safe and practical. Would it have been practical to</p> <p>24 have him sitting up if he's still kicking and</p> <p>25 screaming and you're waiting on the ambulance to come,</p>
<p style="text-align: right;">Page 91</p> <p>1 I don't -- I don't know. I'd want to see more.</p> <p>2 From what -- in an attempt to answer your</p> <p>3 question this is the current policy now. What they</p> <p>4 did back then would I take issue with what they did</p> <p>5 back then, yeah, I wish they would have done</p> <p>6 something -- with this current policy, I wish they</p> <p>7 would have done something better or differently as far</p> <p>8 as having him in a recovery position quicker. Does</p> <p>9 that a little bit answer your question?</p> <p>10 Q Well I heard -- I think I heard a yes, it</p> <p>11 violated policy and then some clarification. I'm not</p> <p>12 sure about the clarification.</p> <p>13 MR. WILLIAMS: He didn't like the</p> <p>14 clarification in other words. Explain -- it's</p> <p>15 speculation anyway. Subject to that you can try</p> <p>16 to explain more.</p> <p>17 A Question, would it be a policy violation.</p> <p>18 With the current policy now, would it have been a</p> <p>19 policy violation back then; correct? That's the</p> <p>20 question?</p> <p>21 Q Um-hmm.</p> <p>22 A Based on just what I saw, it would have</p> <p>23 required me to investigate further. I'll say that.</p> <p>24 Would -- why wasn't he in the recovery position.</p> <p>25 What -- what did you have going on where you felt like</p>	<p style="text-align: right;">Page 92</p> <p>1 he couldn't be in a sitting, standing or side</p> <p>2 position. You need to explain that to me.</p> <p>3 I would want somebody in that position as</p> <p>4 quickly as possible. As soon as you have control of</p> <p>5 them, they need to be in the recovery position. That</p> <p>6 goes for whether they are having difficulty or not in</p> <p>7 my opinion. So it would definitely -- face value,</p> <p>8 yes. Something -- this isn't what policy says we're</p> <p>9 supposed to do. Now you -- now I want to know why we</p> <p>10 didn't follow policy. Why wasn't he in there. So the</p> <p>11 answer to your question, yes, that would be a policy</p> <p>12 violation. I would inquire further why didn't do you</p> <p>13 that.</p> <p>14 Because there's a reason -- as soon as it's</p> <p>15 practical and safe, you are supposed to do that. What</p> <p>16 made you feel that you weren't practical and safe to</p> <p>17 do that. Current policy now compared to what they did</p> <p>18 then. So yes, to answer your question, yes, it would</p> <p>19 be a policy violation.</p> <p>20 Q Okay. As far as medical treatment goes,</p> <p>21 prior to Mr. Rodriguez's arrest what were your</p> <p>22 officers taught about medical treatment when people</p> <p>23 are in custody?</p> <p>24 A You have to clarify. I'm not tracking.</p> <p>25 Q If someone is in one of your officer's</p>

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<p style="text-align: right;">Page 93</p> <p>1 custody --</p> <p>2 A Okay.</p> <p>3 Q -- and they are -- there is some medical</p> <p>4 issues going on with that detainee or arrestee, what</p> <p>5 are your officers trained to do?</p> <p>6 MR. WILLIAMS: Object to the form. I assume</p> <p>7 you are talking about inmates injured and the</p> <p>8 officer sees that an inmate or suspect is</p> <p>9 injured?</p> <p>10 A Call an ambulance.</p> <p>11 Q Is that the only thing?</p> <p>12 A No. They also are trained on how to use the</p> <p>13 AED and CPR and some basic first aid. And some of my</p> <p>14 employees are actually paramedics. So it goes from</p> <p>15 Band-Aid to a paramedic.</p> <p>16 Q What's the AD?</p> <p>17 A AED, the defibrillator.</p> <p>18 Q Is that if the heart stops?</p> <p>19 A Yes. You hook them up and shock them.</p> <p>20 Q They are all trained on that?</p> <p>21 A The ones that have them, yes.</p> <p>22 Q And CPR?</p> <p>23 A Majority -- definitely AED's.</p> <p>24 Q Were they ever trained that they had to give</p> <p>25 medical treatment to someone in their custody?</p>	<p style="text-align: right;">Page 94</p> <p>1 A I think they have to provide medical -- I'd</p> <p>2 have to defer to departmental training officer but</p> <p>3 some level of care, help, calling for an ambulance.</p> <p>4 You know, open wounds, bleeding, attempt to stop the</p> <p>5 bleeding. Using the defibrillator, CPR, giving</p> <p>6 Narcan. I give out a lot of life saving awards. They</p> <p>7 do a pretty good job of giving care.</p> <p>8 Q In this case did the officers provide any</p> <p>9 medical treatment?</p> <p>10 A Other than -- from the video that I saw, it</p> <p>11 appears -- I believe it was Phillips who first notices</p> <p>12 that it appears that Mr. Rodriguez is having an issue</p> <p>13 breathing. And they are assessing. And I know the</p> <p>14 ambulance is coming. And it appears their concern is</p> <p>15 heightened as the ambulance is coming. And they are</p> <p>16 still assessing.</p> <p>17 And it's almost simultaneously when the</p> <p>18 ambulance shows up and they are like hey, I think he's</p> <p>19 having serious difficulty breathing. Like at that</p> <p>20 same point. From my experience if the ambulance</p> <p>21 wasn't there, the officers would have took action as</p> <p>22 far as CPR or AED, doing something of that nature.</p> <p>23 Usually when the ambulance is there, they are the pros</p> <p>24 that handle that.</p> <p>25 Q Did medical treatment of Mr. Rodriguez</p>
<p style="text-align: right;">Page 95</p> <p>1 comport with departmental policies?</p> <p>2 MR. WILLIAMS: Object to form. Go ahead.</p> <p>3 A From what I saw, yes. They -- I'll say the</p> <p>4 ambulance was called at least 10 minutes before any</p> <p>5 indication of something else was wrong. And then I</p> <p>6 believe they checked on -- at least the video I saw</p> <p>7 hey, when are you coming, when are you coming. Hurry</p> <p>8 up. They wanted them there. But he was still yelling</p> <p>9 and kicking. And I don't think -- didn't appear to be</p> <p>10 any concern about breathing at that point. Not until</p> <p>11 really when the ambulance showed up.</p> <p>12 Q Your officers, are they individually covered</p> <p>13 by any liability insurance?</p> <p>14 A Not that I'm familiar with.</p> <p>15 Q ACCG --</p> <p>16 A Individually?</p> <p>17 Q Um-hmm.</p> <p>18 A I have to consult with my attorney. I don't</p> <p>19 have --</p> <p>20 Q I was just curious.</p> <p>21 A I don't know.</p> <p>22 MR. JOHNSON: Okay. That's all I have.</p> <p>23 MR. WILLIAMS: I just have a couple of</p> <p>24 follow-up questions real quickly.</p> <p>25 ///</p>	<p style="text-align: right;">Page 96</p> <p>1 REDIRECT-EXAMINATION</p> <p>2 BY MR. WILLIAMS:</p> <p>3 Q There was a good bit of discussion about the</p> <p>4 recommendations of ACCG, maybe other sources that</p> <p>5 occurred after some period of time and apparently</p> <p>6 after this incident regarding warnings of positional</p> <p>7 asphyxia.</p> <p>8 Do you even know if there is a medical or a</p> <p>9 technical basis for determining whether there is a</p> <p>10 danger of somebody suffering positional asphyxia just</p> <p>11 from being in the prone position, restrained in the</p> <p>12 prone position?</p> <p>13 A No.</p> <p>14 Q So the adoption of a warning about the</p> <p>15 possibility of positional asphyxia, is that just an</p> <p>16 attempt to employ the best practices to avoid</p> <p>17 potential problems?</p> <p>18 A Oh absolutely. When your insurance company</p> <p>19 calls you and say don't do this, if we can fit it into</p> <p>20 best practices, we will do that.</p> <p>21 Q For -- you've been policing for about 28</p> <p>22 years, 27 years?</p> <p>23 A 34 years.</p> <p>24 Q 34 years total?</p> <p>25 A Just 28 at Henry.</p>